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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
Against:

13 **ERIC ZAVALA**

14 **Pharmacy Technician Registration**
15 **Applicant**

16 Respondent.

Case No. 7602

STATEMENT OF ISSUES

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18
19
20 **PARTIES**

21 1. Anne Sodergren (Complainant) brings this Statement of Issues solely in her official
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

23 2. On or about August 10, 2022, the Board of Pharmacy, Department of Consumer
24 Affairs received an application for a Pharmacy Technician Registration from Eric Zavala
25 (Respondent). On or about April 28, 2022, Eric Zavala certified under penalty of perjury to the
26 truthfulness of all statements, answers, and representations in the application. The Board denied
27 the application on June 15, 2023.

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1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board, under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 480 states, in pertinent part:

7 (a) Notwithstanding any other provision of this code, a board may deny a
8 license regulated by this code on the grounds that the applicant has been convicted of
9 a crime or has been subject to formal discipline only if either of the following
10 conditions are met:

11 (1) The applicant has been convicted of a crime within the preceding seven
12 years from the date of application that is substantially related to the qualifications,
13 functions, or duties of the business or profession for which the application is made,
14 regardless of whether the applicant was incarcerated for that crime, or the applicant
15 has been convicted of a crime that is substantially related to the qualifications,
16 functions, or duties of the business or profession for which the application is made
17 and for which the applicant is presently incarcerated or for which the applicant was
18 released from incarceration within the preceding seven years from the date of
19 application.

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21 (e) A board may deny a license regulated by this code on the ground that the
22 applicant knowingly made a false statement of fact that is required to be revealed in
23 the application for the license. A board shall not deny a license based solely on an
24 applicant's failure to disclose a fact that would not have been cause for denial of the
25 license had it been disclosed. . . .

26 5. Section 493 states, in pertinent part:

27 (a) Notwithstanding any other law, in a proceeding conducted by a board within
28 the department pursuant to law to deny an application for a license or to suspend or
revoke a license or otherwise take disciplinary action against a person who holds a
license, upon the ground that the applicant or the licensee has been convicted of a
crime substantially related to the qualifications, functions, and duties of the licensee
in question, the record of conviction of the crime shall be conclusive evidence of the
fact that the conviction occurred, but only of that fact.

6. Section 4300, subdivision (c), states, in pertinent part:

The board may refuse a license to any applicant guilty of unprofessional
conduct. The board may, in its sole discretion, issue a probationary license to any
applicant for a license who is guilty of unprofessional conduct and who has met all
other requirements for licensure. The board may issue the license subject to any terms
or conditions not contrary to public policy, including, but not limited to, the
following:

- (1) Medical or psychiatric evaluation.
- (2) Continuing medical or psychiatric treatment.
- (3) Restriction of type or circumstances of practice.
- (4) Continuing participation in a board-approved rehabilitation program.
- (5) Abstention from the use of alcohol or drugs.
- (6) Random fluid testing for alcohol or drugs.
- (7) Compliance with laws and regulations governing the practice of pharmacy.

7. Section 4301, subdivision (b), states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. . . .

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1770, states:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

FIRST CAUSE FOR DENIAL OF APPLICATION

(January 5, 2018, Conviction of a Substantially Related Crime, Resisting Arrest)

9. Respondent's application is subject to denial under section 480, subdivision (a)(1), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a substantially related crime, as follows:

a. On or about January 5, 2018, after mental incompetency and competency hearings, Respondent was convicted of one felony count of violating Penal Code section 69 [resisting arrest] in the criminal proceeding entitled *The People of the State of California v. Eric Zavala* (Super. Ct. L.A. County, 2018, No. BA457347). On or about January 19, 2018, the Court sentenced Respondent to serve 270 days in jail, placed him on three years of formal probation, and ordered him to complete a 52-Week Domestic Violence Treatment Program. On or about January 23, 2019, after violating probation, the Court revoked Respondent's probation and

1 remanded him to custody. On or about January 23, 2020, the Court reinstated Respondent's
2 probation and ordered him to complete a 180-Day Residential Treatment Program. On or about
3 August 6, 2020, Respondent's probation was ordered to remain in effect. In addition, Respondent
4 was ordered to provide the probation department proof of ongoing mental health treatment, taking
5 of medications and submitting to drug testing.

6 b. The circumstances of arrest leading to the conviction are that on or about May 15,
7 2017, law enforcement officers responded to a call of battery. Respondent had been in escalated
8 verbal to physical altercations with his parents/victims who wanted a private persons arrest of
9 Respondent. Respondent lived in a room in the backhouse of the family residence. Respondent
10 entered the main residence and requested he be driven to a cousin's house to play video games,
11 which his mother refused. Respondent became angry and began to rip down curtains and
12 vandalize the residence. An argument ensued wherein Respondent pushed both his parents onto a
13 bed. Respondent's father stood-up. Respondent pushed his father to the ground, got on top of his
14 father in a mounted position, and began striking him multiple times in the head. Respondent's
15 father sustained injuries to his head and had swelling on the mouth. Respondent's mother
16 approached Respondent to stop him and Respondent pushed her down the stairs, and while
17 falling, she grabbed Respondent, who fell down the stairs with her. Respondent's grandmother
18 heard the commotion and told Respondent to stop fighting before he retreated to his backhouse
19 residence. Upon officers' contact with Respondent, Respondent resisted arrest, grabbed at
20 officers' gear and caused visible injuries to officers, resulting in them having hand lacerations and
21 arm abrasions.

22 **SECOND CAUSE FOR DENIAL OF APPLICATION**

23 **(December 21, 2017, Conviction of a Substantially Related Crime,**
24 **Damaging Prison or Jail)**

25 10. Respondent's application is subject to denial under section 480, subdivision (a)(1), in
26 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was
27 convicted of a substantially related crime, as follows:

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1 a. On or about December 21, 2017, after mental incompetency and competency
2 hearings, Respondent was convicted of one felony count of violating Penal Code section 4600(a)
3 [damaging prison or jail] in the criminal proceeding entitled *The People of the State of California*
4 *v. Eric Zavala* (Super. Ct. L.A. County, 2017, No. BA458553). The Court sentenced Respondent
5 to 444 days in jail and placed him on three years of formal probation. On or about January 23,
6 2020, after violating probation, Respondent was ordered to complete a 180-Day Residential
7 Treatment Program. On or about August 6, 2020, Respondent's probation was ordered to remain
8 in effect. In addition, Respondent was ordered to provide the probation department proof of
9 ongoing mental health treatment, the taking of medications and submitting to drug testing. On or
10 about December 28, 2020, the Court ordered Respondent's balance of restitution to be deemed a
11 civil judgment and probation terminated.

12 b. The circumstances of the arrest leading to the conviction are that on or about June 8,
13 2017, while in the Los Angeles Sheriff Department's custody, Respondent broke his jail cell's
14 glass panel. Respondent was charged with damaging jail property.

15 **THIRD CAUSE FOR DENIAL OF APPLICATION**

16 **(Unprofessional Conduct)**

17 11. Respondent's application is subject to denial under section 4300, subdivision (c), in
18 that on or about May 15, 2017, and June 8, 2017, Respondent committed acts of unprofessional
19 conduct. Complainant refers to and by this reference incorporates the allegations set forth above
20 in paragraphs 9 and 10, inclusive, as though set forth fully.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Pharmacy issue a decision:

24 1. Denying the application of Eric Zavala for a Pharmacy Technician Registration;

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2. Taking such other and further action as deemed necessary and proper.

DATED: 10/17/2023

Sodergren,
Anne@DCA

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Sodergren, Anne@DCA
Date: 2023.10.17 14:29:03
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ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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